

1 Honorable Ronald B. Leighton
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON AT TACOMA

9 REVEREND SARAH MONROE; TIM
10 QUIGG; and APRYL OBI BOLING,

11 Plaintiffs,

12 v.

13 CITY OF ABERDEEN, a municipal
14 government; ERIK LARSON, Mayor of the
15 City of Aberdeen; and KRIS KOSKI, City
16 Engineer,

17 Defendants.

18 NO. 3:18-cv-05949-RBL

19 STIPULATED JOINT MOTION FOR
20 ENTRY OF AGREED ORDER

21 **NOTE ON MOTION CALENDAR:**
22 **December 27, 2018**

23 Plaintiffs, represented by their attorneys James Lobsenz and Todd Maybrown, and
24 Defendants, represented by their attorneys Patrice Kent and John Justice, hereby submit the
25 following stipulated joint motion for entry of an order by the Court which would render moot
26 the Plaintiffs' motion for a temporary restraining order.

27 **I. INTRODUCTION**

28 1. In August of 2018, the City of Aberdeen ("City") purchased the narrow strip of
29 undeveloped property on River Street, between the Chehalis River and the Poynor Rail Yard,
30 and allowed individuals living at the site to remain there.

31 2. In September of 2018, in consideration of life-safety, public safety and public
32 welfare, the City announced that persons wishing to enter the property were required to obtain
33 advance permission from the City before they could do so. The Parties agree that there are
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1 serious life-safety, public safety and public welfare concerns exacerbated by the fact that
2 homeless people are living on the property.

3 3. On November 19, 2018, Plaintiffs initiated this lawsuit and challenged the
4 validity of the requirement that people wishing to enter the property to visit the people living
5 there needed to obtain advance written permission before they could do so. Along with their
6 Complaint for Damages and Injunctive Relief (Dkt. # 1), Plaintiffs filed a Motion for
7 Temporary Restraining Order (Dkt. # 2) and supporting documents, wherein they asked this
8 Court to enjoin Defendants from enforcing the permitting requirements relating to visitors of
9 River Camp.

10 4. On November 26, 2018, Defendants filed responsive pleadings, including their
11 Motion to Deny Temporary Restraining Order (Dkt. # 16).

12 5. On December 12, 2018, the Court directed the parties to attempt to negotiate a
13 resolution of this case. The parties have reached agreement on several matters and thus they
14 jointly move the Court to enter an order that provides as follows. The following order

15 **II. PROPOSED ORDER**

16 1. The City shall not require any visitor who wishes to enter the River Street
17 property to obtain any permit, or any kind of advance permission or authority to do so.

18 2. Visitors wishing to enter the property may not be required to register with the
19 City, or to identify themselves for purposes of entering the property.

20 3. The following time, manner and place restrictions shall apply to visitors to the
21 River Street property.

22 *Time.*

23 4. With the exception of emergency visits, all visitors to the property shall make
24 their visits between the hours of 8 a.m. and 8 p.m.

25 5. Emergency visits are those related to a health or safety emergency where the risk
26 of death or serious injury or sickness to a person on the property appears imminent.

1 6. In any emergency situation, whether during or outside the regular access hours,
2 the visitor shall immediately call the 911 emergency dispatch system for an appropriate public
3 safety agency response.

4 7. Public safety agencies have unrestricted access through the otherwise locked
5 gate located on the City unimproved right-of-way at "H" Street and River Street.

6 *Place.*

7 8. Entrance to the property shall be by way of the unimproved City right-of-way
8 located at the northeast corner of the property (the "H" Street entrance).

9 *Manner.*

10 9. Visitors will obey all laws at all times.

11 10. Visitors will not bring any alcohol onto the property.

12 11. Visitors will not bring any weapons onto the property.

13 12. With the exception of medicines prescribed by a doctor, visitors will not bring
14 any drugs onto the property. They may bring prescription medicines onto the property only if
15 (a) the medicine is prescribed for use by the visitor, or (b) the medicine is prescribed for use by
16 a person living on the property.

17 13. Visitors will not go onto or cross railroad tracks, except at a designated railroad
18 crossing. Visitors will stay at least 45 feet away from rail cars.

19 14. Visitors will use portable toilet facilities provided by the City. The City will
20 continue to arrange for regular servicing of all portable toilets so that they do not become full
21 and/or unusable. Visitors shall not use waste pits or compostable toilets to relieve themselves.

22 15. Visitors shall use City provided dumpsters and/or trash containers and shall not
23 dispose of any garbage on the property except by depositing garbage or refuse in such
24 dumpsters or containers. Visitors shall not bring waste onto the property in order to access
25 City-provided dumpsters. The City shall continue to arrange for regular trash pick-up so that
26 trash containers do not become full and unusable.

1 16. The City will not interfere with the delivery of food, clothing, fuel/firewood, and
2 health and hygiene supplies by visitors.

3 17. Visitors will not deliver fuel/firewood to the property without assurances from
4 those to whom it is delivered that the fuel/firewood will be used in apparatuses according to
5 manufacturers' specifications, or in approved fire pits as prescribed by the Aberdeen Fire
6 Department, whichever is applicable.

7 *Deliveries made by vehicle.*

8 18. The Parties agree that there may be times that visitors require access to the
9 property by vehicle rather than pedestrian access for the delivery of food, clothing,
10 fuel/firewood, and health/hygiene products not readily carried or brought into the site by
11 pedestrians. In respect of the acknowledged public and life safety considerations, the City will
12 provide the following vehicle access through the gate on the unimproved City right of way
13 located at "H" Street and River Street for such deliveries: (a) on Tuesdays between the hours
14 of 2:30 and 4:30 p.m.; and (b) on Thursdays between the hours of 9:00 and 11:00 a.m.; except
15 for emergency circumstances in which the City is prevented from reaching the site. The gate
16 will be staffed by City employees and any vehicles accessing the property must be removed by
17 closing time or be subject to tow.

18 **III. CLAIMS AND ISSUES RESERVED**

19 19. Entry of this order renders the Plaintiffs' TRO motion and their requests for
20 injunctive relief moot.

21 20. This order does not address, and does not in any way resolve, the Plaintiffs'
22 claims for damages and for an award of attorneys' fees and costs. If the parties cannot come
23 to an agreement for a proposed resolution of these claims and issues, the Plaintiffs may proceed
24 to litigate these matters.

25 DATED this 27th day of December, 2018.
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/s/ James E. Lobsenz

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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of December, 2018, I electronically filed the foregoing STIPULATED JOINT MOTION FOR ENTRY OF AGREED ORDER with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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DATED this 27th day of December, 2018.

S/
Legal Assistant